S.B.Civil Review Petition No.9/2007

Bhagwati Narain.

vs.

LRs. of late Shri Ganesh Narain.

Date : 4.5.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.BR Mehta, for the petitioner.

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Heard learned counsel for the petitioner/ appellant.

The petitioner has filed the present review petition for reviewing the judgment of this Court dated 23.2.2007.

According to learned counsel for the petitioner, this Court while rejecting the petitioner's application under Order 41 Rule 27 CPC committed error of law by holding that since the document in question was not registered, therefore, it cannot be taken on record whereas in view of the law settled by the Hon'ble Supreme Court, the family settlement requires no registration. It is also submitted that the powers of

court under Order 47 are wide enough and the Court can correct the mistake. It is also submitted that unfortunately, the law laid down by the Hon'ble Supreme Court with respect to the requirement of registration was not brought to the notice of this Hon'ble Court.

I considered the submissions of learned counsel for the petitioner.

The application under Order 21 Rule 47 CPC was not dismissed on the ground that the document in question was not admissible in evidence. Detail reasons have been given for rejection of the said application which are that the document in question sought to be produced has been produced in second appeal that too after 31 years. Not only this, this Court clearly observed that reaching of the document in the hands of the petitioner itself creates serious doubt. Not only this, the witness who gave affidavit in support of the application, his credibility was found not beyond doubt. In these circumstances, one of the fact relevant was that the document itself, if could have been registered, it might have one of the reasons for consideration about genuineness of the document. In these facts and circumstances, when the application has not been dismissed on the ground that the document is not admissible in evidence, therefore, the fact that

family settlement requires no registration, has no application.

In view of the above, this review petition, having no force, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya